

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department - Revision Petition filed by Sri Paleti Chandra Shekar and Smt.G.Padmavathi and 4 others, natives of Wadlagudem(V), Dammapeta (M), Khammam District - Against the eviction orders issued in Rc No. B/3994/12, Dated 09/03/12 by the Tahsildar Dammapeta (M) Stay orders granted - Hearings held - Final Orders - Allowing possession of the suit land under petitioners - Orders - Issued.

SOCIAL WELFARE (LTR.2) DEPARTMENT

G.O.MS.No .41

Dated 10.03.2014
Read the following:-

- 1) From the Tahsildar Dammapeta(M), eviction orders issued in Rc No.B/3994/12, dt. 9-3-12.
- 2) Revision petition dt. 12-3-12. filed by Sri Paleti Chandra Sekhar and Smt.G.Padmavathi and 4 others, natives of Wadlagudem(V), Dammapeta(M)
- 3) Govt Memo No.4152/LTR-2/12, SW(LTR-2) Dept. dt 19-3-12
- 4) From the Tahsildar Dammapeta(M) para wise remarks received vide Lr. Rc. No. B/3994/12 dated 24 -4-2012.
- 5) Govt Memo No. 4152/LTR-2/12; SW(LTR-2) Dept. dt.25-6-12, 26-7-2012.
- 6) From Sri P.Chandra Sekhar and Smt.G.Padmavathi and 4 others written arguments dt 6-8-12.

O R D E R :

In the reference first read above, Sri Paleti Chandra Sekhar, S/o.Late Apparao, R/o.Wadlagudem Village, Dammamet Mandal of Khammam District and Smt Galla Padmavathi & (04) others, herein the Petitioners have filed Revision Petition before the Government against the orders of the Tahsildar, Dammapeta in Rc.No.B/3994/12, dated.09.03.2012, for evicting the Petitioners from the land Acres 37.07 guntas, in Sy.Nos.85 and 88 of Wadlagudem village of Khammam District.

2. In the reference 3rd read above, the Government while granting stay orders on the eviction orders Dated:09/03/12 of Tahsildar, Dammapeta (M) has called for parawise remarks and case record in respect of the revision petition.

3. In the reference 4th read above the Tahsildar, Dammapeta (M) has furnished the para wise remarks and record to Government wherein he has contended that Wadlagudem (V) being a scheduled village and the petitioners being non-tribals, possession over the suit land by the petitioners is against to Act 1/70.

4. In the reference 5th read above the petitioners were called for the hearing along with the written arguments and record. Accordingly the petitioners have attended the hearing held on 06.08.12 and contended that they are all natives of Vadlagudem(V) and the suit land is under their possession prior to the enforcement of Act 1/70. They have also submitted their written arguments and relevant record in support of their claim to the Government vide reference 6th read above.

5. In their Revision Petition/Written arguments, the Petitioners have contended that their forefathers are natives of Wadlagudem (V) and used to live way back about 130 years and that the suit land in Sy.No.88/1 at Wadlgudem (V) was under the possession of their ancestors, at the time of which, neither A.P.L.E.Act, 1905 nor LTR was in force. Subsequently, based on the Lavoni Rules, Land Revenue has also been collected by issuing B.Memo, by virtue of their hereditary descent and they were

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regularly paying Land Revenue for the last 50 years and even till today and also that their fore-fathers have developed the suit land by investing huge amounts and physical exertion made it fit for cultivation, since they possess no other agricultural land. As such, they contended that they have not encroached any lands and the said land has been under the possession of their ancestors, since ages of 1880s and if the same is either assigned or regularized, it would have been in continuous enjoyment by way of inheritance.

6. They have also contended that in the year 1981, ie., after a lapse of 50 years, the then Tahsildar, Dammamet, u/s 6 of APLE Act issued a Notice for eviction from the suit land. The same was agitated by them before the Hon'ble High Court of A.P. The High Court after considering the nativity and long standing possession of the suit land allowed the possession as per the G.O.Ms.No.41, dated.12.10.71 and held that the suit land in Sy.No.88/1 is lawful, authorized in the light of the possessory title held by them. Accordingly, the then Tahsildar during 1990 issued a speaking order, in terms of the orders of the High Court of A.P. Since then, they are in continuous possession of the suit land. Surprisingly, after a lapse of 22 years, the Tahsildar, Dammamet issued Notice during 2/2012, for eviction from the suit land and also from the lands belong to other Sy.Nos. which are not in their possession. Consequent on this, they were forced to approach the High Court of A.P. for justice. The High Court of A.P. has given directions stating that " there shall be interim stay on dispossession except in accordance with Law". It is also stated that the Tahsildar, Dammamet, without considering their long standing possession over the suit land and without taking into consideration, the orders of the High Court of A.P. and the then orders of Tahsildar issued eviction orders and thus violated the rules and the Appellants have therefore requested to cancel the irregular eviction orders issued by the Tahsildar, Dammamet dated 09.03.2012.

7. On perusal of the records, Written arguments and the orders of the then Tahsildar, Dammamet and relevant material papers made available and after hearing the arguments, it is observed that the Hon'ble High Court of A.P. after hearing both the parties dismissed the WP with a direction to the Writ Petitioners to approach the authorities for assignment of the suit land and to consider the case sympathetically. The Writ Petitioners have filed applications for assignment of the suit land to the extent of Acres 5.00 each. The Tahsildar after due enquiry in the Village and also based on the Village Assistant's report and after inspecting the suit land, held that the applicants are inhabitants of the Village since about 100 years and well established till 1940s. It is also established that the origin of the family is in that Village and they don't have any other agriculture land except the suit one. Finally, after verifying B.Memos and Land Revenue receipts etc. and taking into consideration, their huge investment, physical possession of the petitioners established that they should have to be attracted the benefit provided under G.O.Ms.No.41. The Tahsildar also observed that due to issue of Notices under APLE Act, the applicants have been deprived off the opportunity proved u/s 7 of the APLE Act. While withdrawing the Eviction Proceedings of the then Tahsildar, Aswaraopet, held that in view of the long standing possession and the family circumstances and keeping in view, the directions of the High Court of Andhra Pradesh dated 11.10.1988, ordered that the existing possession of the Writ Petitioners over the suit land be continued in an extent of Acre 5.00 each.

8. Based on the Appeal Petition, Oral arguments/Written arguments and other copies of documents produced by the Appellants and other material papers made available, it is seen that the suit land pertains to way back of 13 decades and it is said to be the Appellant's family is in continuous possession since then, and it is not known as to how the land is accrued to the Appellant's family and the Revenue Authorities also silent on this. The financial position of the Appellants those who held the suit land, since, way back 13 decades cannot be compared at this distance of time.

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However, taking into consideration, the orders of the High Court of Andhra Pradesh dated 11.10.88 and the orders of the then Tahsildar, Dammapeta in proceedings dated 27.01.1990, it appears to be appropriate and justifiable to allow the Appellants to continue their possession in the suit lands, since, the WPs/WPMPs filed before the Hon'ble High Court of A.P. by the Appellants have disposed off, as withdrawn.

9. Keeping in view the overall facts of the case and after careful examination Government here by allow the possession of the suit land in S.No 88/1 at Wadlagudem (V) under petitioners. The stay order granted in the reference 3rd read above is accordingly vacated.

10. The Collector, Khammam District/Additional Agent to Government, Bhadrachalam, Khammam District is requested to take necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYA SAGAR,
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To

The Collector & Agent to Govt., Khammam District.

The Additional Agent to Government & Project Officer, ITDA
Bhadrachalam, Khammam District.

The Special Deputy Collector (TW), Khammam District.

Copy to:

Sri Paleti Chandrasekhar S/o.Late Apparao and Smt Galla Padmavathi &
(G.Prabhavathi, G.Nageswari, A.Jayalaxmi & G.Anuradha) R/o Wadlagudem (V)
Dammamet (M) Khammam District.

The Tahsildar, Dammamet Mandal, Khammam District.

The G.P for Social Welfare, High Court of A.P. Hyderabad.

The P.S to Minister (TW) for information.

The P.S to Prl. Secretary to Government (TW).

SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER